

BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Baker et al. Docket No: 39780-2830C1P48
Serial No: 10/015,389 Group Art Unit: 1647
Filed: December 11, 2001 Examiner: Rachel B. Kapust

**SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC
ACIDS ENCODING THE SAME**

Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF LUC DESNOYERS, Ph.D., DR. AUDREY GODDARD, Ph.D.,

DR. PAUL J. GODOWSKI, Ph.D., DR. AUSTIN GURNEY, Ph.D.,

DR. COLIN K. WATANABE and DR. WILLIAM WOOD, Ph.D.

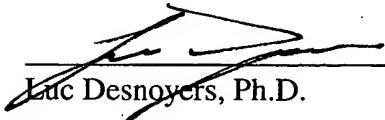
UNDER 37 CFR 1.131

We, Luc Desnoyers, Ph.D., Audrey Goddard, Ph.D., Paul J. Godowski, Ph.D., Austin Gurney, Ph.D., Colin K. Watanabe and William Wood, Ph.D. declare and say as follows:

1. We are the inventors of the above-identified application.
2. We have read and understood the claims pending in this application, and are aware that the claims have been rejected as anticipated by International Patent Application Publication No. WO 00/00610 (Lal *et al.*, publication date January 6, 2000).
3. We conceived and reduced to practice the invention claimed in the above-identified application in the United States prior to January 6, 2000.
4. At the time the present invention was made, one of the inventors, Luc Desnoyers, Ph.D., was, as still is, responsible for overseeing the testing of novel polypeptides, including the polypeptide designated PRO1412, in chondrocyte proliferation assay (Assay #111, Example 153). This assay is used to find agents that are capable of inducing chondrocyte proliferation and/or redifferentiation, and can, therefore, be used in the treatment of joint diseases using a tissue engineering approach or as promising drug candidates to repair aging or arthritic joints, for example, in which the chondrocytes have been dedifferentiated.

5. In this assay, isolated chondrocyte cells are seeded in 96 well plates with either serum-free medium (negative control), staurosporin (positive control) or the test PRO polypeptide. After 5 days, fluorescence dye is added to each plate and measured. The readout of the fluorescence from a plate containing the serum-free medium is measured to establish a background fluorescence level. A positive result in the assay is obtained when the fluorescence of the PRO polypeptide-treated sample is more like that of the positive control than the negative control. This type of fluorescence determination, wherein the readout is compared to positive and negative controls, is well known in the art.
6. A copy of a page from the Genengenes database which reports a positive result for the PRO1412 polypeptide encoded by DNA 64897-1628 (UNQ730) in Assay #111 is attached to this declaration (with its date redacted) as Exhibit A. The positive results reported in the database were also obtained prior to January 6, 2000.
7. Copies of pages from laboratory notebook showing the positive results for the PRO1412 polypeptide (SEQ ID NO:140), identified by Pin number PIN753-1, in Assay #111 are attached to this declaration (with dates redacted) as Exhibit B. These experiments were performed and the results were obtained prior to January 6, 2000.
8. Exhibits A and B clearly show that the polypeptide designated PRO1412 was tested, and its ability to induce the proliferation and/or redifferentiation was determined prior to January 6, 2000.

9. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.



Luc Desnoyers, Ph.D.

08/19/2004

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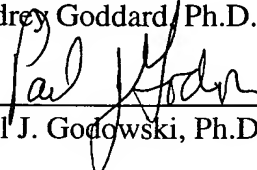
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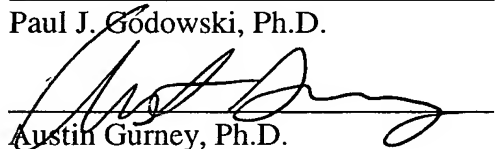
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Date

Paul J. Godowski, Ph.D.

Date



Austin Gurney, Ph.D.

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8/20/04

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Colin K. Watanabe
Colin K. Watanabe, Ph.D.

Aug 24, 2004
Date

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Date

All Positives ☐ Verified Positives ☐ Pending

Date Complete From To

ASY | DNA | DOM | EXP | FAM | FLS | LIB | LOI | MAP | OLI | PER | PRO | EUR | RNA | SAC | UNQ | XET | XSI
 Assay Viewer | Shotgun Viewer | Gene Viewer | GenBankGenes | SAGE

Project No. _____
Book No. 33757 TITLE _____

Primary Assay Result

Assay ID

ASY111

Assay Name

Chondrocytes Proliferation Assay

Assay Date

Notebook Num

	1%		1%		1%		1%		1%		1%		1%		1%		1%	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
A	Staurapgm	Staurapgm	Staurapgm	PIN717-1	PIN721-1	PIN726-1	PIN730-1	PIN734-1	PIN738-1	PIN742-1	PIN746-1	PIN750-1						
B	Media	Media	Media															
C	PIN705-1	PIN711-1	PIN716-1	PIN718-1	PIN722-1	PIN727-1	PIN731-1	PIN735-1	PIN739-1	PIN743-1	PIN747-1	PIN751-1						
D	PIN709-1	PIN712-1	PIN715-1	PIN719-1	PIN724-1	PIN728-1	PIN732-1	PIN736-1	PIN740-1	PIN744-1	PIN748-1	PIN752-1						
E	PIN710-1	PIN713-1	PIN718-1	PIN720-1	PIN725-1	PIN729-1	PIN733-1	PIN737-1	PIN741-1	PIN745-1	PIN749-1	PIN753-1						
F																		
G																		
H																		

Fluorescence

Plate #1: Reading after 3 hours

PASTE YOUR RAW DATA BELOW

	1	2	3	4	5	6	7	8	9	10	11	12
A	88.1	87.1	98.4	100.4	173.2	166.5	166.5	103.1	74.4	88.0	155.6	82.1
B	81.1	159.7	84.4	144.4	98.5	103.6	118.8	75.1	89.3	104.1	73.5	119.8
C	85.4	81.6	89.5	89.1	88.5	84.9	60.4	56.8	67.5	58.6	63.7	107.2
D	92.8	102.4	73.6	79.8	84.7	37.2	80.3	56.4	70.9	75.1	78.4	119.8
E	102.9	73.5	58.0	71.4	55.8	51.1	59.7	47.5	74.3	72.1	52.5	175.3
F	89.3	102.3	80.7	121.8	84.7	83.8	78.2	58.8	68.8	81.4	84.6	180.5
G	116.0	125.9	159.3	105.3	77.3	37.6	84.8	73.5	77.2	84.9	182.3	183.7
H	144.3	102.0	192.0	183.8	181.4	124.0	128.4	125.7	95.4	137.9	172.1	139.5

Control	Fluorescence
Staurapgm	84.3
Media	108.4

Conc	1.00%		1.00%		Positive	Verified	Comments
PIN #	N1	N2	AVERAGE	STDEV			
PIN708-1	0.788	0.780	0.784	0.0			
PIN709-1	0.949	0.845	0.797	0.2			
PIN710-1	1.070	1.331	1.201	0.2			
PIN711-1	0.847	0.945	0.896	0.1			
PIN712-1	0.878	0.944	0.911	0.2			
PIN713-1	1.162	0.941	1.052	0.2			
PIN714-1	0.826	0.897	0.762	0.1			
PIN715-1	0.535	0.744	0.640	0.1			
PIN716-1	1.489	1.771	1.620	0.2	Positive		
PIN717-1	0.928	1.333	1.129	0.3			
PIN718-1	0.822	0.853	0.738	0.1			
PIN719-1	0.839	1.218	0.938	0.4			
PIN720-1	0.973	1.786	1.380	0.8	Positive		
PIN721-1	1.598	0.910	1.254	0.5			
PIN722-1	0.832	0.597	0.614	0.0			
PIN723-1	0.515	0.781	0.648	0.2			
PIN724-1	0.715	1.489	1.102	0.5			
PIN725-1	1.537	0.956	1.246	0.4			
PIN726-1	0.599	0.343	0.471	0.2			
PIN727-1	0.471	0.774	0.623	0.2			
PIN728-1	0.532	1.144	0.838	0.4			
PIN729-1	1.538	1.096	1.317	0.3	Positive		
PIN730-1	0.357	0.356	0.357	0.0			
PIN731-1	0.351	0.722	0.536	0.1			
PIN732-1	0.599	1.184	0.890	0.4			
PIN733-1	0.551	0.697	0.624	0.2			
PIN734-1	0.522	0.520	0.521	0.0			
PIN735-1	0.438	0.617	0.527	0.1			
PIN736-1	0.878	1.159	0.918	0.3			
PIN737-1	0.886	0.824	0.755	0.1			
PIN738-1	0.824	0.834	0.829	0.0			
PIN739-1	0.888	0.835	0.860	0.0			
PIN740-1	0.712	0.880	0.796	0.1			
PIN741-1	0.812	0.981	0.888	0.1			
PIN742-1	0.541	0.695	0.618	0.1			
PIN743-1	0.685	0.751	0.708	0.1			
PIN744-1	0.599	1.272	0.935	0.5			
PIN745-1	1.436	0.724	1.050	0.5			
PIN746-1	0.588	0.733	0.661	0.1			
PIN747-1	0.484	0.781	0.633	0.2			
PIN748-1	1.884	1.588	1.636	0.1	Positive		
PIN749-1	0.757	1.105	0.831	0.2			
PIN750-1	0.989	1.104	1.046	0.1			
PIN751-1	1.618	1.685	1.642	0.0	Positive		
PIN752-1	1.695	1.287	1.491	0.3	Positive		
PIN753-1							

Witnessed & Understood by me, _____

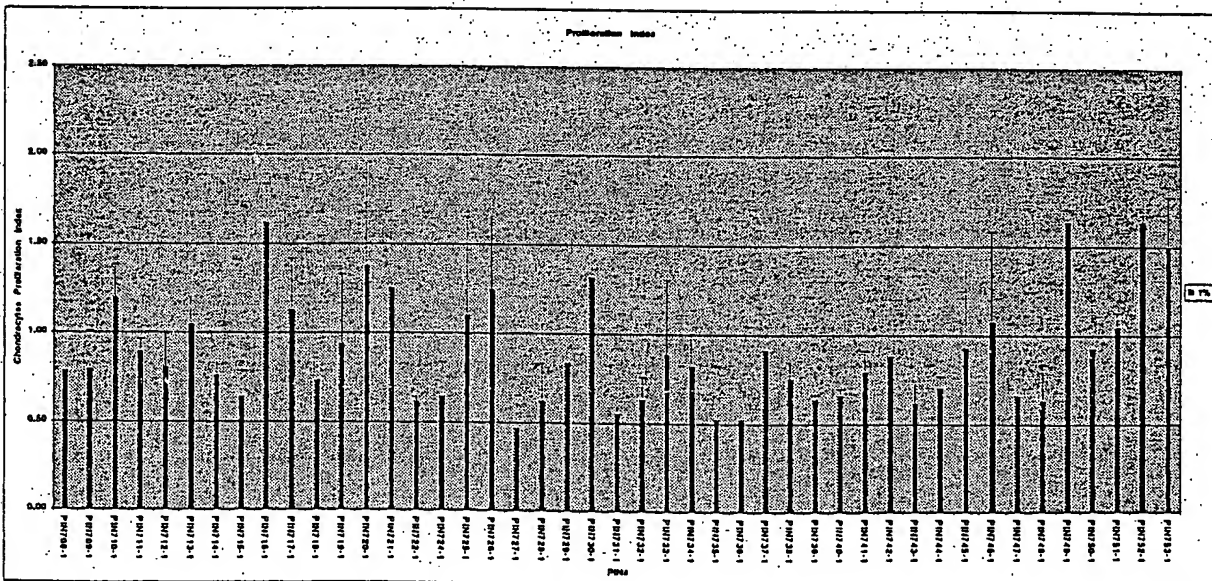
Date _____

Invented by _____

Date _____

GRAPH

TIME	Average	STDEV
PIN708-1	0.78	0.0
PIN709-1	0.80	0.2
PIN710-1	1.20	0.2
PIN711-1	0.90	0.1
PIN712-1	0.81	0.2
PIN713-1	1.05	0.2
PIN714-1	0.78	0.1
PIN715-1	0.84	0.1
PIN716-1	1.62	0.2
PIN717-1	1.13	0.3
PIN718-1	0.74	0.1
PIN719-1	0.94	0.4
PIN720-1	1.38	0.8
PIN721-1	1.25	0.3
PIN722-1	0.61	0.0
PIN724-1	0.65	0.2
PIN725-1	1.10	0.3
PIN726-1	1.25	0.4
PIN727-1	0.47	0.2
PIN728-1	0.62	0.2
PIN729-1	0.84	0.4
PIN730-1	1.22	0.3
PIN731-1	0.56	0.0
PIN732-1	0.64	0.1
PIN733-1	0.69	0.4
PIN734-1	0.82	0.2
PIN735-1	0.52	0.0
PIN736-1	0.53	0.1
PIN737-1	0.92	0.3
PIN738-1	0.78	0.1
PIN739-1	0.84	0.0
PIN740-1	0.66	0.0
PIN741-1	0.60	0.1
PIN742-1	0.69	0.1
PIN743-1	0.62	0.1
PIN744-1	0.71	0.1
PIN745-1	8.94	0.5
PIN746-1	1.08	0.5
PIN747-1	0.66	0.1
PIN748-1	0.83	0.2
PIN749-1	1.64	0.1
PIN750-1	0.93	0.2
PIN751-1	1.05	0.1
PIN752-1	1.64	0.0
PIN753-1	1.49	0.3



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